

Dated: December 30, 1994.

L.M. Bynum,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 95-220 Filed 1-4-95; 8:45 am]

BILLING CODE 5000-04-M

Defense Science Board Task Force on Combat Identification

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Combat Identification will meet in closed session on January 17, 1995 at the MITRE Corporation, Bedford, Massachusetts.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will evaluate the DoD long term strategy and plan for development and fielding of a comprehensive situational awareness (SA) and combat identification (CID) architecture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92-463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: December 30, 1994.

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[FR Doc. 95-221 Filed 1-4-95; 8:45 am]

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Defense Science Board Task Force on Depot Maintenance Operations and Management

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Depot Maintenance Operations and Management will meet in closed session on January 17, 1995 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will provide advice,

recommendations and suggested implementations for improvements to the Department's depot maintenance operations.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92-463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

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[FR Doc. 95-222 Filed 1-4-95; 8:45 am]

BILLING CODE 5000-04-M

Defense Science Board Task Force on Global Positioning System (GPS)

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Global Positioning System (GPS) will meet in closed session on January 11-12, 1995 at Los Angeles Air Force Base, California. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review and recommend options available to improve GPS jam resistance with particular emphasis on GPS tactical weapon applications. The main focus of the Task Force shall be the investigation of techniques for improving the resistance of GPS embedded receivers in tactical missiles and precision munitions and their delivery platforms.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92-463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: December 30, 1994.

L.M. Bynum,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 95-00223 Filed 1-4-95; 8:45 am]

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DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Office of Administrative Law Judges; Intent To Compromise Claims, Ohio Rehabilitation Services Commission

AGENCY: Department of Education.

ACTION: Notice of intent to compromise claims.

SUMMARY: The Department intends to compromise claims against the Ohio Rehabilitation Services Commission now pending before the Office of Administrative Law Judges (OALJ), Docket Nos. 93-76-R and 93-120-R (20 U.S.C. 1234a(j)).

DATES: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before February 21, 1995.

ADDRESSES: All comments concerning this notice should be addressed to Jeffrey B. Rosen, Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue, S.W., Room 5411, FB-10B, Washington, D.C. 20202-2242.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Rosen. Telephone: (202) 401-6009. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Pursuant to the Single Audit Act of 1984 (Pub. L. 98-502) and the provisions of Office of Management and Budget (OMB) Circular A-128, the Ohio Auditor of State conducted an audit of the State of Ohio for the period July 1, 1989 through June 30, 1990. A final audit report was issued on January 18, 1993 (ACN: 05-23444G) (hereinafter "Ohio I").

Based upon this audit report, the Regional Commissioner, Region IV, Rehabilitation Services Commission, U.S. Department of Education (ED), issued a Preliminary Department Decision (PDD) on June 24, 1993 in which he requested that Ohio repay \$883,517 of funds misspent under Title I of the Rehabilitation Act of 1973, as amended (the Act), 29 U.S.C. 701 *et seq.* There were six different findings as follows:

1. Finding 16—\$10,395—late payment penalties.
2. Finding 18—\$77,962—State match charged to the Federal program.
3. Finding 19—\$227,400—payment of back pay award.

4. Finding 20—\$157,417—exceeded statutory limitation for indirect costs.
5. Finding 21—\$410,343—indirect costs not appropriately allocated.

On October 29, 1993 Ohio filed an application for review of the PDD with the Office of Administrative Law Judges (OALJ).

The Ohio Auditor of State conducted another audit covering the period July 1, 1988 through June 30, 1989. A final audit report was issued on October 1, 1992 (ACN: 05-23033G) (hereinafter "Ohio II"). In Ohio II, the Regional Commissioner issued a PDD on August 31, 1993 in which he requested that Ohio repay \$10,798 of funds under the Act. The demand for a refund was based upon Ohio using funds under the Act to pay late charges on overdue invoices. Ohio filed an appeal of the PDD with the OALJ on September 30, 1993.

On November 15, 1993 the Administrative Law Judge (ALJ) granted a motion to consolidate the two cases. On May 27, 1994 the Regional Commissioner filed a Notice of Reduction of Claim notifying the ALJ that, based upon new information submitted by Ohio, the claim in Ohio I was reduced by \$106,840.86. The entire outstanding amount in Finding #18 of \$77,962 was eliminated and the outstanding amount in Finding #20 was reduced by \$28,878.86 to \$128,538.14. Thus, the total amount outstanding in the two appeals was reduced to \$787,474.14.

Ohio and ED have agreed to settle all of the issues in these cases with the exception of Finding #19 in Ohio I in the amount of \$227,400. The parties will litigate this issue. The remaining amount of \$560,074.14 is covered by the Settlement Agreement.

Under the terms of the proposed agreement, Ohio owes ED a total of \$211,745.64. Of this amount, a total of \$68,446.00 is credited to Ohio for overmatch reported on its SF-269 for fiscal year 1990. Under the Act, grant funds are awarded to States on a matching basis. Depending upon the fiscal year, the Federal Government contributes approximately 80 percent of the funding for the State's vocational rehabilitation (VR) program. (34 CFR 361.86.) The State is required to provide the remainder of the funding to earn the Federal contribution. State and Federal VR funds are commingled so that it is not possible to identify which funds are used for particular program expenditures. In this case, Ohio provided more State funds for VR services than was mandated by the matching requirement in § 361.86 of the

regulations. These overmatch funds can be substituted for disallowed Federal expenditures on a dollar-for-dollar basis.

As a result, the repayment amount is \$143,299.64, to be paid within 30 days of execution of the agreement by ED. Ohio would be assessed interest at a rate of 4 percent per year if full payment is not made within 30 days. Failure to make timely repayment within 40 days would result in a late payment fee of 10 percent of the \$143,299.64 principal. Finally, under the agreement, the parties would jointly move for dismissal of the appeal. For the following reasons, ED recommends approval of the proposed Settlement Agreement.

A. Late Payment Penalties—100% Recovery

In both Ohio I and Ohio II, the State incurred late charges on invoices that were not properly paid. Ohio charged \$10,395 and \$10,798, respectively, to the VR Basic Support Program under the Act. Maintaining throughout the negotiations that there was no basis to use Federal funds for late charges, ED refused to compromise this portion of the findings. Ohio has agreed to repay the \$21,193, in full, as part of the proposed agreement.

B. Unallowable Indirect Costs—100% Recovery

In Ohio I, the State exceeded the statutory limitation for indirect costs and charged the excess funds to the ED VR grants. ED maintained that the practice of charging unallowable costs to the VR program represented a substantial harm to the Federal interest of ensuring that Federal programs are not charged more than their fair and appropriate share of the costs. Ohio has agreed to pay the \$128,538.14 outstanding on this violation, in full, as part of the proposed agreement.

C. Allocable Indirect Costs—15% Recovery

In Ohio I, the auditors found that all indirect costs were charged to ED grants, rather than to a centralized indirect cost pool. As a result, the auditors concluded that the State received duplicative reimbursement from ED and the U.S. Department of Health and Human Services (HHS). In particular, 33 employees of the State's Bureau of Disability Determination (BDD) Fiscal Accounting Section worked entirely on the HHS grant activities. The auditors found that the related indirect costs for these employees were charged inappropriately to the ED grants. A total of \$410,343 was disallowed.

Ohio provided credible evidence that shows that this finding was based on some erroneous assumptions by the State auditors. Of the \$410,343, a total of \$26,018 was for telephone charges and a total of \$115,116 was for rent charges. These expenses are clearly the type of expenses that are charged directly to grants, and the evidence submitted by the State demonstrates that these expenses were charged to the HHS grant. Thus, it appears that these charges should no longer be disallowed.

The remaining charges of \$269,209 consisted of equipment, building maintenance, and consultants for the BDD. Documentation submitted by Ohio showed that the HHS grant was charged for substantially all of these costs.

There is no direct evidence that the ED grant was also charged. Even one of the auditors, who made the initial audit finding, expressed some doubt as to the validity of the initial findings.

There is clearly a high litigation risk in attempting to uphold the original finding. At this time, ED has no information to establish that any of the disallowed costs were charged inappropriately to the ED grant. Although there is clearly a problem with the State's recordkeeping with respect to this issue, Ohio has presented other less reliable and circumstantial evidence that could persuade a judge or a Federal court to rule in substantial part or in full for its position. Furthermore, it is highly unlikely that ED would have made the cost disallowance if this information had been available earlier.

Ohio has agreed to repay \$62,014.50. Based upon the foregoing, ED believes that it is prudent to accept the settlement offer of 15 percent of the original costs disallowed in the PDD for this finding.

D. Other Considerations

If these issues are not settled, ED will incur further litigation costs. With respect to the back pay award that will be litigated further, there are no factual issues in dispute. The only area of contention is a legal issue—whether Federal funds can pay for costs if no services were provided and there was no benefit to the Federal interest. However, the allocable indirect costs issue is predicated upon factual disputes and the lack of corroborating documentation. Extensive discovery efforts would be necessary before this issue could be litigated. In addition, ED could hope to recover, at best, only the \$269,209 that appears to be in dispute at this time. The recovery in the proposed agreement is almost 23 percent of this amount.